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**From:** Laabs, Chris [Laabs.Chris@epa.gov]  
**Sent:** 2/24/2020 8:30:14 PM  
**To:** Hurlid, Kathy [Hurlid.Kathy@epa.gov]; Chemerys, Ruth [Chemerys.Ruth@epa.gov]  
**Subject:** Revised version of PWS RE: For Chris: Thoughts on outreach to tribes during 404(g) rule comment period  
**Attachments:** 404(g) PWS Outreach Comment support Draft 2-24-20.docx; 404(g) PWS Outreach Comment support Draft 2-24-20 Clean.docx; 2020 0224 Notes for Ahmar.docx

**Importance:** High

Kathy/Ruth,

Attached is a marked up and a clean version of the most current version of the PWS. I think it captures everything we talked about last week. Also attached is a list of questions to discuss with Ahmar before we submit the package to him.

Use the "clean version" if you want to mark up and comment. That version is the most up to date and has an updated "deliverables" table. Sorry this took longer this morning than I expected and I didn't get a chance to work on it over the weekend.

Let me know if you want to discuss or if we should get this in front of Ginny.

Thanks  
Chris

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**From:** Laabs, Chris  
**Sent:** Friday, February 21, 2020 4:40 PM  
**To:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Subject:** RE: For Chris: Thoughts on outreach to tribes during 404(g) rule comment period  
**Importance:** High

These new task orders behave has been a learning curve.

For the TSAWP contract, we put in place several Ocean Dumping Task Orders (TOs) to replace the previous Mission Support/Work Assignment style contract. Each of the TOs are broadly written with language of the number of anticipated surveys/samples to be analyzed. Each TO is incrementally funded for yearly options (which begin on a rolling year) and can have options for additional years. Contractors bid on the work based on the assumptions we provided them and then we have them provide cost estimates of each Technical Direction so we can control costs.

However, these assumptions would likely be enough to:

404(g)

- "up to" 4 for tribes / one face to face for states, *(combined ½ day and ½ day WOTUS approach)*
- One additional webinar for states.
- "up to 3" webinars for the public that we'd want them to facilitate/set up.
- One "federalism" meeting in DC – Big 10, etc with webinar capability

The locations for tribal outreach are: one in NW, one in SW, one in Mid West, and one in SE (likely Atlanta).

Assume 100k comments or less for proposed rule; *develop database structure/snippets (Salesforce, Access or something analogous which has EPA licensure) for greater than 5,000 individual comment letters)*

ESA FRN outreach assumption – “Up to” two webinars. And RTC will be 10k-20k or less; develop database structure/snippets (Salesforce, Access or something analogous which has EPA licensure) for greater than 5,000 individual comment letters)

If we don't have the full blown database developed, what is the alternative approach for less than 5,000 comments?

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Timing: Is this about right ???

ESA FRN published in March for 30 days?

Webinars concurrent to PNC

RTC begins at the end of the PNC – Likely April 15 or later

404g Publishing Late April/May for 60 days?

Outreach meetings concurrent to PNC

RTC begins at the end of PNC – Likely June 15 or later

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Logistically for the Task Order Package

- I'll get a cleaned up version of the PWS to share with you two Monday before Noon.
- If we can come to agreement, then we can push to Ginny
- Develop a list of questions for Amir S. – funding/level of details, changes in scope of the TO
- Concurrently, we can finalize the other T/O package pieces – IGCE, CBI, Etc.
- (likely in place 60 days after complete package is moved to Cincinnati)

I've got a bit of crisis with an active water leak. Going to have to sign off.

Chris

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**From:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Sent:** Friday, February 21, 2020 3:54 PM

**To:** Laabs, Chris <[Laabs.Chris@epa.gov](mailto:Laabs.Chris@epa.gov)>; Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>

**Subject:** RE: For Chris: Thoughts on outreach to tribes during 404(g) rule comment period

But that will make the IGCE ridiculous. Can we do both? Say we want this for these steps/meetings but may in the future add meetings, webinars, per technical direction etc? I thought we couldn't do technical direction we needed to scope out more and make amendments.

For 404(g) I envision “up to” 4 for tribes, one face to face for states, “up to 3” webinars for the public that we'd want them to facilitate/set up. Actual tribal consultation meetings will be done by us or more likely the regional RTOC leads. We can do an additional webinar for states.

The locations for tribal outreach are: one in NW, one in SW, one in Mid West, and one in SE (likely Atlanta).

As for number of comments on this rule less than 100k

As for outreach on the ESA FRN – I don't see us asking or doing any, but you could put in an estimate for “Up to” two webinars. And RTC will be 10k-20k or less.

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**From:** Laabs, Chris <Laabs.Chris@epa.gov>  
**Sent:** Friday, February 21, 2020 3:20 PM  
**To:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Cc:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Subject:** RE: For Chris: Thoughts on outreach to tribes during 404(g) rule comment period

I'm kind of vacillating about being specific in this Task Order especially if we are going to be using it for a longer duration. We may be better served with more implementing language and using technical direction in the future to fill in the details.

- We don't have definitive dates
- Or number of outreach meetings
- Or locations
- Or range of comments

Setting up the T/O this way would be subject to the CL-COR and CO concurrence of course AND we would need to be diligent with our technical direction in writing.

Chris

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**From:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Sent:** Friday, February 21, 2020 2:10 PM  
**To:** Laabs, Chris <Laabs.Chris@epa.gov>  
**Cc:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Subject:** For Chris: Thoughts on outreach to tribes during 404(g) rule comment period

Chris-

Mostly fyi, but given Karen's recommendation on # of meetings, it might be good to say "up to four" meeting with tribes in the PWS, instead of 3 as it's currently drafted.

Ruth

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**From:** Gude, Karen <Gude.Karen@epa.gov>  
**Sent:** Friday, February 21, 2020 12:32 PM  
**To:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Cc:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>; McMiller, Nettie <McMiller.Nettie@epa.gov>  
**Subject:** RE: Thoughts on outreach to tribes during 404(g) rule comment period

Ruth,

Hi. Thanks for the email, and apologies for the delay in responding. I would really appreciate it if we could schedule a short call or meeting within the next week or so to touch base. I would be happy to schedule something, if this would be helpful. If we could please also include in Nettie McMiller, who is working on tribal outreach and communications efforts, as well.

Regarding the tribal engagement meetings once the 404g rule proposal is signed:

- **Locations –**
  - If possible, 4 meetings would be ideal. Given the number of tribes in Regions 9 and 10, it would be great to have a meeting in both Regions, along with the Midwest, and Southeast, as you've largely outlined

below. I imagine that tribes in FL and AZ will be particularly interested/keyed in on the rulemaking, but imagine there will be interest from tribes across the U.S.

- I think, where possible, having a meeting at a Regional Office can be beneficial, both with respect to cost and potential Regional support for the meeting. This might work best for cities like Seattle, Chicago, and/or Atlanta. For Region 9/the Southwest, my sense is that doing something in Albuquerque, Phoenix, or Tuscan might make more sense than something like San Francisco or Dallas. But if you have contractor support to cost out and weigh various options, this would obviously be helpful.
- **Framing the Meetings –**
  - I would suggest framing these meetings as tribal engagement forums, as opposed to tribal consultations. Many tribes have very specific definitions of what government-to-government consultation is. For many, it is limited to in-person, on reservation meetings between senior federal agency and tribal leadership. Some tribes may feel that if they attend a meeting with the senior leadership that this would be a consultation, others may not. I generally find that it's best to avoid labeling such meetings as consultation events.
- **Regional Staff Support –**
  - We can discuss this further, but I'd also recommend contacting/inviting Regional Indian Coordinators for the Regions where the meeting will be held to the event. The RICs often work closely with the tribes in that Region and may be a useful resource where tribal issues/concerns are raised.
- **Tribal Consultation Comment Letters –**
  - Also, when you get a chance, would it be possible please share with me and Nettie the tribal consultation comment letters that were received on the 404g rulemaking?

Again, I'm happy to discuss this more. It would also be helpful just to have a few minutes to touch on the status of the 404g rulemaking and the options papers that you'd shared with me a little earlier this month.

Thanks again,

Karen Gude  
Tribal Program Coordinator  
U.S. EPA/Office of Water  
Phone: (202) 564-0831

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**From:** Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>  
**Sent:** Thursday, February 20, 2020 3:27 PM  
**To:** Gude, Karen <[Gude.Karen@epa.gov](mailto:Gude.Karen@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** Thoughts on outreach to tribes during 404(g) rule comment period

Hi Karen-

Kathy and I are working on getting a contractor in place to provide meeting support for outreach and/or consultation with tribes during the public comment period. We're thinking of 3-4 in-person meetings with tribes and would appreciate any initial thoughts you may have on locations and venues. We would perhaps ask the contractor to evaluate alternative locations, depending on timing and cost.

We met with Damaris to get her thoughts based on the WOTUS experience. Suggestions were to consider using EPA offices or airport hotel/conference center of major metropolitan area. Damaris recommended considering: Albuquerque, Seattle, Atlanta, Kansas City, (last 4 were the WOTUS locations), possibly Chicago, Minneapolis, TLEF meeting

Kathy's initial thoughts on where we might hold the meetings include: Albuquerque, Las Vegas or Tuscon for Southwest; Omaha or Minneapolis for Midwest; Seattle or Idaho for Northwest; and Tennessee or Alabama for Southeast.

We'll want to decide whether to have 3 or 4 meetings; if just 3, where would the best locations be, and would it be better to try and use Regional offices or other locations. If possible, we might want to have the RA participate as the senior EPA official (rather than OW management), especially if we hold meetings in Regional offices.

If it would be helpful to have a short call or meeting within the next week or so, let us know.

Thanks!

Ruth

*Ruth Chemerys*

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